

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

LARRY BUSSARD and LINDA
BUSSARD, husband and wife,

Plaintiffs,

v.

J.C. PENNEY COMPANY, INC., a
corporate entity,

Defendant.

NO: 2:19-CV-0164-TOR

ORDER OF DISMISSAL

BEFORE THE COURT is the issue of the Bankruptcy Court's Order of Discharge and Plaintiffs' request for lifting the stay Order.

On June 1, 2020, this case was STAYED by operation of the automatic stay provisions of 11 U.S.C. § 362 when the Defendant initiated bankruptcy proceedings in the Southern District of Texas. ECF No. 26. On August 9, 2022, the Court ordered the Parties to file a joint status report as to the bankruptcy proceeding and whether this case may proceed. ECF No. 27. On September 9,

1 2022, the Defendant filed a report indicating that this matter is permanently
2 enjoined and discharged in bankruptcy. ECF No. 33. According to the Defendant:

3 Pursuant to the Confirmation Order, any claim, interest, or cause
4 of action against the Debtors or their property that arose before
5 the Effective Date has been discharged and the pursuit of any
6 such claim, interest, or cause of action, whether known or
7 unknown, has been permanently enjoined. Confirmation Order
8 88. Accordingly, as of May 20, 2020, the automatic stay that
9 applied to above-captioned case during the pendency of the
10 Chapter 11 Cases was replaced by a discharge injunction in
11 accordance with 11 U.S.C. § 524(a)(2), permanently enjoining
12 Larry Bussard and Linda Bussard from pursuing the claims
13 asserted against the Reorganized Debtors and certain of their
14 Affiliates in the above-captioned case outside of the claims
15 reconciliation process administered by the Bankruptcy Court. No
16 order has been entered in the Chapter 11 Cases granting relief
17 from the discharge injunction with respect to the above-
18 captioned case.

19 ECF No. 33 at 2. Defendant seeks dismissal of this action. *Id.* at 3. Plaintiffs then
20 sought an order lifting the automatic stay and extending time to engage in
discovery. ECF No. 37. The Court denied the request to lift the stay and denied
discovery. ECF No. 38. On November 29, 2022, the Court ordered that the
Plaintiffs “may seek a lifting of the automatic stay from the Bankruptcy Court for
the Southern District of Texas, where the bankruptcy proceeding is being
administered. Absent a Court Order from the Bankruptcy Court lifting the stay,
this Court will dismiss and close the file on January 20, 2023.” *Id.* at 2.

1 Plaintiffs have not provided this Court with an Order from the Bankruptcy
2 Court lifting the stay and the time to do so has now expired.

3 **ACCORDINGLY, IT IS HEREBY ORDERED:**

4 In light of the Bankruptcy Court's Order of Discharge, this case is hereby
5 **DISMISSED** with prejudice.

6 The District Court Executive is directed to enter this Order, enter Judgment
7 accordingly, provide copies to counsel, and **CLOSE** the file.

8 DATED January 23, 2023.



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Thomas O. Rice
THOMAS O. RICE
United States District Judge